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Application No. 10/674,545  
Amendment dated June 7, 2005  
Reply to Office Action of March 8, 2005

**- REMARKS/ARGUMENTS -**

Claims 1 to 14 remain in the application.

Claims 1 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Harris (U.S. Patent No. 4,187,418) in view of Foster (U.S. Patent No. 6,125,482).

As recognized by the Examiner himself, Harris is directed to a conventional push button system as disclosed, for instance, in the Applicant's description of the prior art. Harris is representative of the state of the art in the field of traffic signal actuators. As evidenced by this reference, the use of photocell or other type of non-mechanical actuator has never been contemplated. Of course, photocell and sensors are known and used in other fields, but there has never been any suggestion whatsoever in the field of traffic light controller systems to use such devices in place of conventional pedestrian push buttons. Harris states that pedestrian-controlled devices have taken a variety of forms and only refers to them as including a "push button". This constitutes further evidence that it has heretofore never been contemplated to replace the "push button" with other types of non-contact actuators. Pedestrian-controlled devices are exposed to the elements and, as such, the use of light-actuated devices has always been considered inappropriate.

It is respectfully submitted that Foster is directed to a hand-washing unit that is adapted to be installed in a room within a building and not outside, as in the present invention. There is no teaching in Foster to apply a photocell to an element-exposed device, as presently claimed. Furthermore, it is respectfully submitted that Foster is completely outside of the art at issue. Technicians who design hand-washing units would be different from technicians who design traffic light control systems. It cannot be assumed that the man skilled in the art would look outside of the art at issue. Harris's patent is classified under U.S. Class 200/295, whereas Foster's is classified under U.S. Class 4/623.

Furthermore, Harris and Foster do not suggest the desirability and, thus, the obviousness of making the combination, since neither of them recognizes the problem of preventing false detection in an external contactless detection system exposed to the elements.

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Foster is not reasonably pertinent to the problem with which the Applicant is concerned, because a person having ordinary skill in the art would not reasonably have expected to solve the problem of false detection in a pedestrian contactless control system by considering a reference dealing with hand-washing units such as used in restaurants, shops and factories.

If it were so obvious to incorporate a contactless and activating system in a pedestrian-controlled device, then why hasn't it ever been suggested or implemented before? Harris's patent issued in 1980 and infrared sensors have been known for quite some time. If it were that obvious to combine such features together, someone would have already done so. It has not been done because it was not obvious to incorporate some sort of infrared sensor and/or other similar type of contactless actuator in a device that is exposed to the elements. The man skilled in the art would have thought that that light elements, such as snow or leaves carried by wind would cause accidental actuation of the light control units.

Foster does not teach or suggest in any way how the infrared sensor must be oriented and installed in a pedestrian traffic light control system to provide for proper and safe operation. In fact, Foster does not even set forth the orientation of the infrared sensor. The Examiner has inferred from Foster's sketches that the infrared sensor is vertical but, in fact, it could be at any angle. The fact that the detector is mounted on a horizontal surface does not necessarily imply that the beam is directed vertically. For instance, it could be oriented at 15° from vertical, while being shown on a horizontal surface such as in Figure 6 of Foster. Foster does not make any mention of the orientation of sensor 109 and is not concerned with the problem of preventing light elements carried by wind for causing false detection.

Therefore, in addition to not being in analogous art, the combination of Harris and Foster does not provide all of the claimed elements.

In summary, Foster does not suggest the claimed orientation of the sensor and is a non-analogous prior art reference, which does not address the problem solved by the present invention and which has heretofore prevented the incorporation of contactless activating members in pedestrian-controlled systems.

Secondary considerations, such as long-felt need also militate against a finding of non-obviousness.

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In view of the foregoing, the Examiner's rejection under 103 is believed to be inappropriate and, as such, this rejection should be withdrawn.

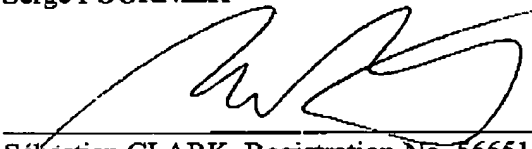
In the event that there are any questions concerning this amendment or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application can be expedited.

Respectfully submitted,

Serge FOURNIER

By:

June 7, 2005  
Date

  
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